

Sixth Appellate District

San Jose, California

MONDAY, JANUARY 10, 2005

H027042 IN RE BERNARD JOHN WEIDER ON HABEAS CORPUS

The superior court's order dated December 8, 2003, directing the Board to vacate its decision and conduct another parole hearing, and, in the event of denial of parole, allowing defendant to file another petition for a writ of habeas corpus within 30 days after he files an administrative appeal, is affirmed. (not published)

(Premo, J.; We concur: Rushing, P.J., Mihara, J.)

Filed January 10, 2005

H024886 PEOPLE v. JONES

The submission in this appeal is vacated pending disposition of the Writ of Habeas Corpus, case number H027718. The appeal will be resubmitted once there is such a disposition in the Habeas matter.

Dated January 10, 2005

Rushing, P.J.

H026026 PEOPLE v. UMBLE

H027197 PEOPLE v. UMBLE

In H026026, *People v. Umble*, the clerk of the superior court is directed to modify the abstract of judgment to provide that (1) the parole revocation fine is stricken; and (2) the parole period is three years, and to forward the amended abstract of judgment to the Department of Corrections. As modified, the judgment is affirmed. In H027197, *People v. Umble*, the order denying defendant's postjudgment motion to set aside the jury verdict and dismiss the information is affirmed and the order denying defendant's postjudgment motion to strike the \$7,200 parole revocation fine is reversed. (not published)

(Bamattre-Manoukian, Acting P.J.; We concur: Mihara, J., McAdams, J.)

Filed January 10, 2005

H025981 PEOPLE v. BROWN

H026927 In re BROWN on Habeas Corpus

The judgment is reversed and remanded for further proceedings. The petition for writ of habeas corpus is denied. (not published)

(Mihara, J.; I concur: Bamattre-Manoukian, Acting P.J.; Dissenting and Concurring opinion by McAdams, J.)

Filed January 10, 2005

Sixth Appellate District

San Jose, California

TUESDAY, JANUARY 11, 2005

H025030 GONZALES v. CITY OF SAN JOSE; HUANG

By the Court:

The written opinion filed on December 16, 2004 is certified for publication. (Rushing, P.J.; Premo, J., Elia, J.) The written opinion filed on December 16, 2004 has now been certified for publication in its entirety pursuant to rule 976(b) of the California Rules of court, and it is therefore ordered that it be published in the Official Reports.

Dated: January 11, 2005 Rushing, P.J.

H026197 PEOPLE v. HOANG

(Filed order modifying opinion.) The appellant's petition for rehearing is denied. There is no change in the judgment.

(not published)

(Rushing, P.J.; We concur: McAdams, J., Walsh, J.*)

(*Judge of the Santa Clara County Superior Court assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.)

Filed January 11, 2005

H023902 PEOPLE v. SERRANO, et al.

By the Court*:

Appellant Serrano's petition for rehearing is denied.

Filed: January 11, 2005

*Before Rushing, P.J. and Premo, J.

H026807 PEOPLE v. PRICE

The one-year enhancement for case No. 89703 is ordered stricken. The clerk of the superior court shall correct the abstract of judgment and send a corrected copy to the Department of Corrections. In all other respects, the judgment is affirmed. (not published)

(Premo, J.; We concur: Rushing, P.J., Elia, J.)

Filed January 11, 2005

H025938 RANDALL v. CAMPBELL, et al.

The judgment is affirmed. Defendants Campbell and Ligeti shall have their costs on appeal. Defendants' motion for sanctions is denied. (not published)

(McAdams, J.; We concur: Rushing, P.J., Walsh, J.*)

Filed January 11, 2005

(*Judge of the Santa Clara County Superior Court assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.)

Sixth Appellate District

San Jose, California

Tuesday, January 11, 2005 (continued)

The Court met in its courtroom at 333 West Santa Clara Street, Suite 1060, San Jose, California. Present: Rushing, P.J.; Premo, J.; Elia, J.; and R. W. Norvelle, Deputy Clerk.

H027419 PEOPLE v. MOSES C.

Cause called and argued by James W. Duffy appearing for Appellant and by Martin S. Kaye, Deputy Attorney General, appearing for Respondent. Cause ordered submitted.

H025403 PEOPLE V. LI

Cause called and argued by Tara Mulay appearing for Appellant and by Bridget Billeter, Deputy Attorney General, appearing for Respondent. Cause ordered submitted.

H026486 In re LI on Habeas Corpus

Cause called and argued by Tara Mulay appearing for Petitioner and by Bridget Billeter, Deputy Attorney General, appearing for Respondent. Cause ordered submitted.

H027378 In re DAVID W.

Cause called and argued by Robert Masterson, Deputy District Attorney, appearing for Appellant Minor, by Jennifer Sprinkles, Deputy County Counsel, appearing for Appellant Department of Family and Children's Services, and by Sharon Rollo appearing for Respondent. Lynne Snyder appears for DeFacto Parents and does not argue. Cause ordered submitted.

H025573 PEOPLE v. SOLORIO

Cause called and argued by Cliff Gardner appearing for Appellant and by Bridget Billeter, Deputy Attorney General, appearing for Respondent. Cause ordered submitted. Court stands in recess.

The Court reconvened at 1:30 p.m. in its courtroom at 333 West Santa Clara Street, Suite 1060, San Jose, California. Present: Rushing, P.J.; Premo, J.; Elia, J.; and J. Michel Casique, Deputy Clerk.

H026936 PEOPLE v. CRUZ

Cause called and argued by Hilda Scheib appearing for Appellant and by John R. Vance, Deputy Attorney General, appearing for Respondent. Cause ordered submitted.

Sixth Appellate District

San Jose, California

Tuesday, January 11, 2005 (continued)

H026810 PEOPLE v. DAYE

Cause called and argued by Matthew Wilson appearing for Appellant and by Catherine A. Rivlin, Deputy Attorney General, appearing for Respondent. Cause ordered submitted.

H026655 PEOPLE v. JERNIGAN

Cause called and argued by Jean F. Matulis appearing for Appellant and by Jill M. Thayer, Deputy Attorney General, appearing for Respondent. Cause ordered submitted.

H027011 LIVE OAK ELEMENTARY SCHOOL DISTRICT v. CITY OF CAPITOLA REDEVELOPMENT

Cause called and argued by George J. Kovacevich appearing for Appellant and by Christian Mark Keiner appearing for Respondent. Cause ordered submitted.

Elia, J. steps down and McAdams, J. takes the bench.

H024976 PEOPLE v. GUZMAN, et al.

Cause called and argued by Kathy Chavez and Dan Mrotek appearing for Appellants and by Catherine A. McBrien, Deputy Attorney General, appearing for Respondent. Cause ordered submitted. Court stands in adjournment.

H027242 PEOPLE v. BEESON

H027907 PEOPLE v. MARTEARENA

H027379 PEOPLE v. OTTINGER, III

H027932 PEOPLE v. ALVARADO

H027483 PEOPLE v. KELLY

The cause herein is ordered submitted.

Dated: January 11, 2005 RUSHING, P.J.

H027520 PEOPLE v. CRUM

H027658 PEOPLE v. EDRA

H027804 PEOPLE v. VARELA

The cause herein is ordered submitted.

Dated: January 11, 2005 BAMATTRE-MANOUKIAN, Acting P.J.

Sixth Appellate District

San Jose, California

Tuesday, January 11, 2005 (continued)

H027585 PEOPLE v. EDGAR G.

The order is modified to strike the imposition of the court security fee. As modified, the order is affirmed. (not published)

(Mihara, J.; We concur: Bamattre-Manoukian, Acting P.J., McAdams, J.)

Filed January 11, 2005

H027412 PEOPLE v. HECTOR S.

The order of disposition is affirmed. (not published)

(Bamattre-Manoukian, Acting P.J.; We concur: Mihara, J., McAdams, J.)

Filed January 11, 2005

WEDNESDAY, JANUARY 12, 2005

H026360 CARMEL DEVELOPMENT COMPANY v. RLI INSURANCE COMPANY;
FIREMAN'S FUND INSURANCE COMPANY

The judgment against RLI is reversed. RLI is entitled to its costs on appeal. (not published)

(Elia, Acting P.J.; We concur: Bamattre-Manoukian, J., McAdams, J.)

Filed January 12, 2005

H027087 PEOPLE v. MICHAEL JOHN DOMINGUEZ

The judgment is affirmed. (not published)

(Elia, J.; We concur: Rushing, P.J., Premo, J.)

Filed January 12, 2005

H022727 PEOPLE v. FERNANDO DOMINGUEZ

(Filed order modifying opinion.) The respondent's petition for rehearing is denied. There is no change in the judgment. (published)

(Rushing, P.J.; We concur: Premo, J., Elia, J.)

Filed January 12, 2005

Sixth Appellate District

San Jose, California

THURSDAY, JANUARY 13, 2005

The Court met in its courtroom at 333 West Santa Clara Street, Suite 1060, San Jose, California. Present: Rushing, P.J.; Elia, J.; Mihara, J.; and S. Nasson, Deputy Clerk.

H026832 PEOPLE v. RAMIREZ

Cause called and argued by George Schraer appearing for Appellant and by Joan Killeen, Deputy Attorney General, appearing for Respondent. Cause ordered submitted.

H024448 VOGEL, et al. v. FELICE

Cause called and argued by Jesse Ruiz appearing for Appellant and by William Dresser appearing for Respondents. Cause ordered submitted.

H025985 RODRIGUES v. SUPERIOR COURT; JOAQUIM, et al.

Cause called and argued by Byron Fleck appearing for Petitioner and by David Lively appearing for Real Parties in Interests. Cause ordered submitted. Mihara, J. leaves the bench. Premo, J. takes the bench.

H026276 PEOPLE v. CLARK

Cause called and argued by Meredith Watts appearing for Appellant and by Ryan McCarroll, Deputy Attorney General, appearing for Respondent. Cause ordered submitted.

H027427 NGUYEN on Habeas Corpus

Cause called and argued by Margo Smith, Deputy District Attorney, appearing for Appellant and by Meredith Fahn appearing for Respondent. Cause ordered submitted.

H027461 ASTER v. ASTER

Cause called and argued by appellant, Herman Aster, appearing in Propria Persona. No appearance made on behalf of respondent. Cause submitted. Court adjourns.

H026508 PEOPLE v. MORALES

The judgment is affirmed. (not published)
(Walsh, J.*; We concur: Premo, Acting P.J., Bamattre-Manoukian, J.)

Filed January 13, 2005

(*Judge of the Santa Clara County Superior Court assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.)

Sixth Appellate District

San Jose, California

Thursday, January 13, 2005 (continued)

H026547 PEOPLE v. AVILA

On the court's own motion, the submission order in the above-entitled matter dated November 10, 2004, is hereby vacated for further consideration of the issues raised on appeal. The matter is hereby resubmitted.

Dated: January 13, 2005 RUSHING, P.J.

H022727 PEOPLE v. FERNANDO DOMINGUEZ

It is ordered that the modification filed herein on January 12, 2005, be vacated (see order for modification of opinion.) The respondent's petition for rehearing is denied. There is no change in the judgment. (published)

(Rushing, P.J.; We concur: Premo, J., Elia, J.)

Filed January 13, 2005

H027043 PEOPLE v. STAMPS

The judgment is affirmed. (not published)

(Elia, Acting P.J.; We concur: Bamattre-Manoukian, J., McAdams, J.)

Filed January 13, 2005

H026865 PEOPLE v. BARBER

The judgment is affirmed. (not published)

(Elia, Acting P.J.; We concur: Bamattre-Manoukian, J., McAdams, J.)

Filed January 13, 2005

H026026 PEOPLE v. UMBLE

H027197 PEOPLE v. UMBLE

(Filed order modifying opinion.) This modification does not effect a change in the judgment. (not published)

(Bamattre-Manoukian, Acting P.J., Mihara, J., McAdams, J.)

Filed January 13, 2005

H026165 PEOPLE v. GREENE

The judgment is affirmed. (not published)

(Bamattre-Manoukian, J.; I concur: Walsh, J.*; concurring opinion by Premo, Acting P.J.)

Filed January 13, 2005

(*Judge of the Santa Clara County Superior Court assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.)

In The Court Of Appeal Of The State Of California

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Sixth Appellate District

San Jose, California

FRIDAY, JANUARY 14, 2005

(no minute approved orders)